

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OCT 16 1984

REGION II

Enforcement Action - Duane Marine Corporation, Perth Amboy, New Jersey

Fred N. Rubel, Chief
Response and Prevention Branch

339510

Robert Ogg, Chief
Site Investigation and Compliance Branch

As a follow-up to Bruce Sprague's conversation with you on October 15, I am requesting that enforcement action be initiated to get responsible parties to act immediately at Duane Marine since we consider conditions to be unsafe and a delay in the state's response is anticipated. We will prepare an Action Memorandum for the RA's approval within the next ten days proposing a removal action. The EPA action, if taken, would involve the removal/disposal of drums and other containers of hazardous materials.

Attached is some background information to aid the individual you assign to this project. If you have any questions on this site, the OSC assigned to this site is Bruce Sprague.

Attachments

cc: B. Sprague, 2ERR-RP

File: Duane Marine

2ERR-RP:Sprague:340-6656:ss:10/16/84:disk s#6

	2ERR-RP	2ERR-RP	CONCURRENCES				
SYMBOL	Sprague	Rubel					
SURNAME	<i>[Signature]</i>	<i>[Signature]</i>					
DATE	10/16/84	10/16/84					



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WASTE MANAGEMENT
HAZARDOUS SITE MITIGATION ADMINISTRATION
CN 028, Trenton, N.J. 08625

MARWAN M. SADAT, P.E.
DIRECTOR

JORGE H. BERKOWITZ, PH.D.
ADMINISTRATOR

16 APR 1984

Bruce Sprague, Environmental Scientist
U.S. Environmental Protection Agency
Region II
U.S.A. Raritan Depot
Woodbridge Avenue
Edison, New Jersey 08837

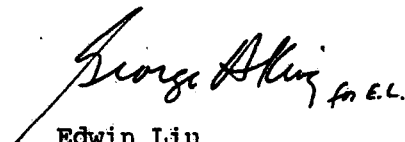
Dear Mr. Sprague:

As per your request I have attached the information concerning the status of DEP's enforcement action and the investigation report from the City of Perth Amboy as the result of a fire at Duane Marine.

As suggested by Mr. Heksch, the ten day directive letter is being prepared.

Should you need any additional information, please contact me. Also, please keep the Department informed with the status of this case.

Sincerely,



Edwin Liu
Site Manager
Bureau of Site Management

HS10/cs
Attachment

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW

MEMORANDUM

TO: Edwin Lieu
Hazardous Site Mitigation

DATE: March 27, 1984

FROM: Ronald P. Heksch, DAG

SUBJECT: Duane Marine Corp.

I am writing to formally advise you that the above matter has been reassigned to me for handling. It is my understanding from discussions we have had that DEP wants to conduct an immediate cleanup of the Duane Marine facility in Perth Amboy with money from the Spill Fund. Given the failure of Duane Marine to act responsibly and take all action necessary to clean up its property despite legal action brought by this office and the City of Perth Amboy, I would recommend that the State-funded cleanup commence as soon as possible and that we seek treble damages from the company and its owners/operators. This being the case a Spill Fund ten-day directive letter should be sent to Duane Marine, Edward Leccareaux and any other owners or operators of the facility we know about. Thereafter, if, as expected, no response is forthcoming cleanup activities can commence. Please send me copies of the directive letters for my file and keep me advised of DEP's cleanup activities.

It is important to note that the contractor hired to do the cleanup work must understand that he will most likely have to testify in court. He should therefore be advised to carefully document all his actions and be able to fully justify his costs. Furthermore, he must be able to provide expert testimony related to the hazardous conditions at the site and the need for cleanup. Additionally, during the course of cleanup, the contractor and/or DEP should gather evidence to assist the enforcement case. This should include, but not be limited to, gathering information related to the illegal handling and/or disposal of hazardous waste at the site; gathering information related to the generators of the wastes found at the site; linking specific wastes found to specific generators, if possible, and a review of all available records related to the Duane Marine operations at the property in question.

Finally, you have asked for an outline of the State's enforcement activities to date. The following is a legal history of this case based on my review of the file. In April of 1979 Duane Marine's temporary operating authorization from DEP expired. On or about May 23, 1979 the City of Perth Amboy brought suit against the company seeking to have it cease operating. On or about June 4, 1979 DEP intervened in the aforementioned law suit. On July 31, 1979 a consent order was entered into wherein Duane Marine was permitted to continue operating provided that it would take certain action to improve its operations and begin handling the wastes it stored in an environmentally sound fashion and in full compliance with the law. Duane Marine

Edwin Lieu
Page 2
March 27, 1984

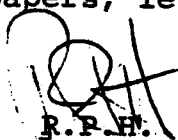
failed to comply with the terms and conditions of the consent order in question. This was true despite numerous applications by DEP to the court to enforce the terms of the consent order.

On July 7, 1980, as you know, there was a fire at the Duane Marine facility which substantially destroyed the operations there. On July 18, 1980 the parties appeared before the court at which time Duane Marine's attorney represented to the court that the company had no interest in continuing operations as a special waste facility on the premises in question. The court ordered Duane Marine to undertake an immediate cleanup of all the remaining drums and rubble at the site. The company failed to comply with this order as well. On July 31, 1981 our office filed an application with the court seeking compliance with the July 18, 1980 court order. The State's application was made returnable in August, however, negotiations followed between counsel for the State and Duane Marine's attorney and the return date of the State's motion was adjourned indefinitely. Needless to say, the negotiations between the parties proved fruitless and Duane Marine has still not complied with previous orders of the court to clean up its property.

Again, in light of the history of this case and DEP's desire to conduct cleanup of the Duane Marine property as soon as possible, it is my opinion that a ten-day directive letter should be sent to the company and its owners and/or operators immediately. Thereafter, a State-funded cleanup should take place, after which we will sue the company and its principals for three times the cost of cleanup.

If for some reason DEP is unable to effectuate a cleanup within the next few months, please let me know so that I can pursue other remedies we might have against Duane Marine.

If you need any further information concerning this matter or require copies of the court papers, let me know.


R.P.H.

RPH/bf

cc: Lawrence E. Stanley, DAG

INVESTIGATION REPORT

1. Department Pertth AmBoy		2. Mun. Code 01216		4. UCR		21. Prosecutor No.		22. Dept. Case No.		<input type="checkbox"/> Co-op <input type="checkbox"/> Original	
5. Crime/Incident ARSON				6. NJS 2C:17-1(b)				23. Victim (First, Middle, Last) DUANE MARINE			
				Social Security Number				24. D.O.B.		25. Sex	
										28. Race	
DATE AND TIME AT X 9:00PM TUES 9 13 83		7. Between <input type="checkbox"/>		8. Hour		9. Day		10. Mo.		12. Yr.	
27. Victim's Address (City, State, Zip) FRONT & WASHINGTON ST								Phone and Ext. No. NONE			
13. Crime/Incident Location FRONT & WASHINGTON ST								28. Employer/Address OFF DAVE FRIEDMAN			
14. Municipality Pertth AmBoy								15. County Middlesex		16. Code	
17. Type of Premises OTHER BUILDING								18. Code 86		19. Weapons—Tools OTHER ACTION	
20. Code 56								31. Address 351 RECTOR ST PERTH AMBOY			
32. Modus Operandi/How Committed ABANDONED OFFICE TRAILER SET ON FIRE.								30. Date and Time 9-13-83 9:05 PM			
33. Vehicle								34. Year		35. Make	
36. Body type								37. Color		38. Registration Number and State	
39. Serial Number or Identification								40. Currency		41. Jewelry	
42. Furs								43. Clothing		44. Auto	
45. Miscellaneous								46. Total Value Stolen		47. Total Value Recovered	
48. Teletype Alarm								49. Technical Services		50. Technician and Agency	
51. Weather RAIN/Cloudy								52.		53.	
54.								55. Evidence <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> None <input type="checkbox"/> ONJ SBI <input type="checkbox"/> Retained <input type="checkbox"/> Returned <input type="checkbox"/> Destroyed		56. Disposition <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Arrest Pending <input type="checkbox"/> Teletype Pending <input type="checkbox"/> Evidence Pending	
57. Chem. Lab. No.								58. Ballistics Lab. No.		59. MV Summ/Warn No.	
60.								61. No. Arrested		62. Adult	
63. Juvenile								64. Status Crime		65. Status Case	
66. UCR Status								67. Date Cleared		68. Name	
69. Age								70. Sex		71. Race	
72. D.O.B.								73. Rank/Name (Print or Type) DAVE FRIEDMAN		74. Badge No. 104	
75. Page 1								76. Date of Report 9-13-83		77. Reviewed By	
78.								79.		80.	
81.								82.		83.	

9:01-9:03-9:23 - Detailed to Fire AT Old Site of DUANE MARINE - Report of a FIRE in an ABANDONED OFFICE FIRE - BECAUSE OF LOCK TRAILER (NO DOOR, NO LOCK, NO FIRE) Fire was Considered to Be of Suspicious Nature - AT TIME OF REPORT NO TYPE OF ACCIDENT WAS FOUND, FIRE DEPT, CUT FENCE LOCK TO ENTER PROPERTY, AREA WAS RE SECURED WITH POLICE PADLOCK #4

73. Rank/Name (Print or Type) DAVE FRIEDMAN		74. Badge No. 104		75. Page 1		76. Date of Report 9-13-83		77. Reviewed By	
Signature <i>[Signature]</i>		78.		79.		80.		81.	

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NOV 9 1984

Duane Marine, Perth Amboy, NJ - Pre-Action Advisory of Possible Need to Exceed \$1 Million Limit for a CERCLA Removal Action

Fred N. Rubel, Chief
Response and Prevention Branch

Marc Mjones, Guidance and Monitoring Team Member
Guidance Development Section (WH-548B)

Attached is a removal action request which our Regional Administrator will soon be asked to concur with, involving the expenditure of over \$900,000. Because this has the potential for exceeding the \$1 million limit for CERCLA removal actions, I am asking that you advise within two days of receipt of this material whether Headquarters has any objections to this project, especially if it would later prevent the authorization of funds over \$1 million.

We will first order a potentially responsible party(ies) to act. Failing this, Trust Fund monies will be used. A lack of objection now to this action will not be construed to mean authorization to exceed \$1 million. We understand that the merits of the situation will have to be presented if funding exceeding the Regional Administrator's authority is needed at a future date. Your rapid reply would be appreciated.

Attachment

cc: W. Librizzi, 2ERR
B. Sprague, 2ERR-PP

FILE: Duane Marine

2ERR-RP:RUBEL:340-6658:mab:11/6/84:disk M #1

CONCURRENCES

SYMBOL	2ERR-RP						
SURNAME	RUBEL						
DATE	11/6						